

JAN 28 2009

A BILL FOR AN ACT

RELATING TO THE ECONOMY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that tax credits and tax
2 exemptions provide an important set of tools for Hawaii's
3 economic diversification. At the same time, especially during
4 economic downturns, it is incumbent on state policymakers to
5 thoroughly evaluate existing tax credits and tax exemptions to
6 determine whether they are fulfilling the purposes for which
7 they were adopted, as well as providing solid returns on public
8 investment.

9 The purposes of this Act are to institute an ongoing
10 program of evaluation of those tax credits and tax exemptions
11 that have no sunset dates, require the department of taxation to
12 compile the necessary information to enable the legislature to
13 evaluate tax credits and exemptions with consistent standards,
14 and to sunset those credits and exemptions that the department
15 of taxation and legislature do not believe should be extended.
16 Over time, as economic conditions change, different combinations
17 of tax credits and tax exemptions serve as the State's key tools



1 to promote or discourage particular behavior among residents and
2 businesses.

3 For existing tax credits and tax exemptions that have a
4 sunset date, the purpose of this Act is to require the
5 department of taxation to compile accurate information on their
6 usage and whether they are fulfilling the purposes for which
7 they were adopted, as well as providing solid returns on public
8 investment.

9 SECTION 2. Section 235-20.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§235-20.5 Tax administration special fund; established.**

12 There is established a tax administration special fund, into
13 which shall be deposited fees collected under sections 235-20,
14 235-110.9, and 235-110.91, and penalties collected under
15 section 2 of Act 206, ~~[+]~~Session Laws of Hawaii 2007~~[+]~~. The
16 moneys in the fund shall be expended by the department to offset
17 the costs associated with:

- 18 (1) Issuing comfort letters;
- 19 (2) Administering the tax credit under ~~[section]~~ sections
20 235-110.9~~[7]~~ and 235-110.91, including issuing
21 certificates; and



1 (3) ~~[Issuing certificates under section 235-110.91.]~~
2 Compiling usage and other relevant economic data to
3 analyze the costs and benefits of the State's tax
4 laws."

5 SECTION 3. **Tax credits and exemptions; evaluation; report.**

6 (a) The department of taxation shall perform an evaluation of
7 the following tax credits or tax exemptions and submit a report
8 of the evaluation and a progress report on the planned uses and
9 actual expenditures associated with the reports required by this
10 section to the legislature by no later than twenty days prior to
11 the convening of the regular session of 2010; provided that if
12 the department of taxation does not submit a complete and
13 accurate evaluation of the following tax credits and tax
14 exemptions by no later than twenty days prior to the convening
15 of the regular session of 2011 and the legislature fails to
16 implement the department of taxation's recommendations pursuant
17 to the evaluation, then each of the applicable tax credits and
18 tax exemptions shall not be available to be claimed for taxable
19 years beginning after December 31, 2010:

20 (1) Section 235-12.5, Hawaii Revised Statutes (renewable
21 energy technologies; income tax credit);

- 1 (2) Section 235-15, Hawaii Revised Statutes (tax credits
2 to promote the purchase of child passenger restraint
3 systems);
- 4 (3) Section 235-110.2, Hawaii Revised Statutes (credit for
5 school repair and maintenance);
- 6 (4) Section 235-110.51, Hawaii Revised Statutes
7 (technology infrastructure renovation tax credit);
- 8 (5) Section 235-110.8, Hawaii Revised Statutes (low-income
9 housing tax credit);
- 10 (6) Section 237-24, Hawaii Revised Statutes (general
11 excise tax; amounts not taxable), except for section
12 237-24(6) (salaries or wages for services rendered);
- 13 (7) Section 237-24.3, Hawaii Revised Statutes (general
14 excise tax; additional amounts not taxable);
- 15 (8) Section 237-24.9, Hawaii Revised Statutes (general
16 excise tax; aircraft service and maintenance
17 facility);
- 18 (9) Section 237-29.53, Hawaii Revised Statutes (general
19 excise tax; exemption for contracting or services
20 exported out of state);



- 1 (10) Section 237-29.55, Hawaii Revised Statutes (general
2 excise tax; exemption for sale of tangible personal
3 property for resale at wholesale);
- 4 (11) Section 237-29.8, Hawaii Revised Statutes (general
5 excise tax; call centers; exemption; engaging in
6 business; definitions);
- 7 (12) Section 239-6.5, Hawaii Revised Statutes (public
8 service company tax; tax credit for lifeline telephone
9 service subsidy); and
- 10 (13) Section 239-12, Hawaii Revised Statutes (public
11 service company tax; call centers; exemption; engaging
12 in business; definitions).
- 13 (b) The department of taxation shall perform an evaluation
14 of the following tax credits or tax exemptions and submit a
15 report of the evaluation and a progress report on the planned
16 uses and actual expenditures associated with the reports
17 required by this section to the legislature by no later than
18 twenty days prior to the convening of the regular session of
19 2011; provided that if the department of taxation does not
20 submit a complete and accurate evaluation of the following tax
21 credits and tax exemptions by no later than twenty days prior to
22 the convening of the regular session of 2012 and the legislature



1 fails to implement the department of taxation's recommendations
2 pursuant to the evaluation, then each of the applicable tax
3 credits and tax exemptions shall not be available to be claimed
4 for taxable years beginning after December 31, 2011:

5 (1) Section 235-110.6, Hawaii Revised Statutes (fuel tax
6 credit for commercial fishers);

7 (2) Section 235-110.7, Hawaii Revised Statutes (capital
8 goods excise tax credit);

9 (3) Section 237-16.8, Hawaii Revised Statutes (general
10 excise tax; exemption of certain convention,
11 conference, and trade show fees);

12 (4) Section 237-23, Hawaii Revised Statutes (general
13 excise tax; exemptions, persons exempt, applications
14 for exemption), except for section 237-23(a)(1)
15 (public service companies);

16 (5) Section 237-23.5, Hawaii Revised Statutes (general
17 excise tax; related entities; common paymaster;
18 certain exempt transactions);

19 (6) Section 237-24.5, Hawaii Revised Statutes (general
20 excise tax; additional exemptions);

21 (7) Section 237-24.7, Hawaii Revised Statutes (general
22 excise tax; additional amounts not taxable);



1 (8) Section 237-24.75, Hawaii Revised Statutes (general
2 excise tax; additional exemptions);

3 (9) Section 237-25, Hawaii Revised Statutes (general
4 excise tax; exemptions of sales and gross proceeds of
5 sales to federal government, and credit unions);

6 (10) Section 237-28.1, Hawaii Revised Statutes (general
7 excise tax; exemption of certain shipbuilding and ship
8 repair business); and

9 (11) Section 237-29.5, Hawaii Revised Statutes (general
10 excise tax; exemption for sales of tangible personal
11 property shipped out of the state).

12 (c) The department of taxation shall perform an evaluation
13 of the following tax credits or tax exemptions and submit a
14 report of the evaluation to the legislature by no later than
15 twenty days prior to the convening of the regular session of
16 2012; provided that if the department of taxation does not
17 submit a complete and accurate evaluation of the following tax
18 credits and tax exemptions by no later than twenty days prior to
19 the convening of the regular session of 2013 and the legislature
20 fails to implement the department of taxation's recommendations
21 pursuant to the evaluation, then each of the applicable tax



1 credits and tax exemptions shall not be available to be claimed
2 for taxable years beginning after December 31, 2012:

3 (1) Section 209E-10, Hawaii Revised Statutes (state
4 business tax credit);

5 (2) Section 209E-11, Hawaii Revised Statutes (state
6 general excise exemptions);

7 (3) Section 235-55.85, Hawaii Revised Statutes (Refundable
8 Food/Excise Tax Credit);

9 (4) Section 235-55.91, Hawaii Revised Statutes (Credit for
10 Employment of Vocational Rehabilitation Referrals);

11 (5) Section 235-71, Hawaii Revised Statutes (Tax on
12 Corporations; Rates; Credit of Shareholder of
13 Regulated Investment Company);

14 (6) Section 235-110.3, Hawaii Revised Statutes (Ethanol
15 Facility Tax Credit);

16 (7) Section 237-26, Hawaii Revised Statutes (general
17 excise tax; exemption of certain scientific contracts
18 with the United States);

19 (8) Section 237-27, Hawaii Revised Statutes (general
20 excise tax; exemption of certain petroleum refiners);

21 (9) Section 237-27.5, Hawaii Revised Statutes (general
22 excise tax; air pollution control facility);



- 1 (10) Section 237-27.6, Hawaii Revised Statutes (general
2 excise tax; solid waste processing, disposal, and
3 electric generating facility; certain amounts exempt);
- 4 (11) Section 237-29, Hawaii Revised Statutes (general
5 excise tax; exemptions for certified or approved
6 housing projects);
- 7 (12) Section 241-4.7, Hawaii Revised Statutes (low-income
8 housing; income tax credit); and
- 9 (13) Section 244D-4.3, Hawaii Revised Statutes (liquor tax;
10 exemption for sales of liquor out of the State).
- 11 (d) The department of taxation shall perform an evaluation
12 of the following tax credits and submit a report of the
13 evaluation to the legislature by no later than twenty days prior
14 to the convening of the regular session of 2013; provided that
15 if the department of taxation does not submit a complete and
16 accurate evaluation of the following tax credits by no later
17 than twenty days prior to the convening of the regular session
18 of 2014 and the legislature fails to implement the department of
19 taxation's recommendations pursuant to the evaluation, then each
20 of the applicable tax credits shall not be available to be
21 claimed for taxable years beginning after December 31, 2013:



1 (1) Section 235-55, Hawaii Revised Statutes (Tax Credits
2 for Resident Taxpayers);

3 (2) Section 235-55.6, Hawaii Revised Statutes (Expenses
4 for Household and Dependent Care Services Necessary
5 for Gainful Employment); and

6 (3) Section 235-55.7, Hawaii Revised Statutes (Income Tax
7 Credit for Low-Income Household Renters).

8 (e) The reports submitted by the department of taxation
9 under this part shall provide data, economic analyses, and other
10 information sufficient to enable the legislature to determine
11 whether the tax credits and tax exemptions, evaluated have
12 achieved or are achieving their intended objectives, whether
13 they are consistent with public policies, and whether they
14 should be continued, modified, or repealed.

15 If the department of taxation recommends that a tax credit
16 or tax exemption should be modified, it shall include in its
17 report, with the assistance of the departments listed in
18 subsection (f)(2), the proposed draft legislation to implement
19 the recommended modifications.

20 If the department of taxation recommends that the law
21 establishing a tax credit or tax exemption should be continued
22 in its current form, it shall make appropriate recommendations,



1 with assistance of the departments listed in subsection (f)(2),
2 to improve the operation of the tax credit or tax exemption,
3 including, but not limited to, recommendations for appropriate
4 restrictions to be placed on the tax credit or tax exemption and
5 whether to use a five-year or ten-year sunset provision. In
6 accordance with this section, the recommendation from the
7 department of taxation to continue the tax credit or tax
8 exemption in its current form or recommendation to modify the
9 credit shall be received before the applicable tax credit or tax
10 exemption is scheduled to sunset pursuant to this section.

11 The reports submitted by the department of taxation under
12 this part may also include recommendations for the evaluation of
13 other tax credits and exemptions in the future.

14 (f) In evaluating the tax credits and tax exemptions the
15 department of taxation may:

- 16 (1) Contract with recognized technical experts
17 knowledgeable in the field of economics;
- 18 (2) Establish a technical advisory group, which may
19 include the department of labor and industrial
20 relations, department of agriculture, department of
21 commerce and consumer affairs, department of
22 transportation, department of human services, and



1 department of business, economic development, and
2 tourism, to help identify and develop the data
3 elements needed for the analyses; and

4 (3) Collect, process, and analyze data from federal,
5 State, and local government sources.

6 SECTION 4. (a) The department of taxation shall perform
7 an evaluation of the following tax credits or tax exemptions and
8 submit a report of the evaluation to the legislature by no later
9 than twenty days prior to the convening of the regular session
10 as specified below:

11 (1) Section 235-17, Hawaii Revised Statutes (Motion
12 picture, digital media, and film production income tax
13 credit), one year before the expiration date, as
14 specified in that section;

15 (2) Section 235-110.46, Hawaii Revised Statutes
16 (Attractions and Educational Facilities Tax Credit; Ko
17 Olina Resort and Marina; Makaha Resort), one year
18 before the expiration date, as specified in that
19 section;

20 (3) Section 235-110.51, Hawaii Revised Statutes
21 (Technology Infrastructure Renovation Tax Credit), one



1 year before the expiration date, as specified in that
2 section;

3 (4) Section 235-110.9, Hawaii Revised Statutes (High
4 Technology Business Investment Tax Credit), one year
5 before the expiration date, as specified in that
6 section; and

7 (5) Section 235-110.91, Hawaii Revised Statutes (Tax
8 Credit for Research Activities), one year before the
9 expiration date, as specified in that section.

10 The tax credits indentified in this subsection are not
11 being extended in any manner. The tax credits indentified in
12 this subsection are existing tax credits with expiration dates
13 that shall be reviewed in a uniform and systematic manner prior
14 to their respective repeal dates, similar to those tax credits
15 evaluated that do not have expiration dates, to determine
16 whether those tax credits have fulfilled the purposes for which
17 they were enacted.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2009.

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Report Title:

Tax Credits; Tax Exemptions; Evaluation; Report

Description:

Requires the department of taxation to evaluate certain tax credits and tax exemptions and report to the legislature.

Requires the department of taxation to give recommendations and for the legislature to implement those recommendations prior to the mandate for those tax credits and tax exemptions to sunset.

